

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEANNA VASKAS, Husband and Wife,

v.

MOTOR TRUCK EQUIPMENT – PITTSBURGH,
INC., d/b/a KENWORTH OF PENNSYLVANIA,
KENWORTH TRUCK CO., and PACCAR, Inc.

:
:
:
:
:
:
:
:
:
:
:

NOTICE OF REMOVAL

To: The Honorable Judges of the United States District Court
for the Middle District of Pennsylvania

Defendants, Kenworth Truck Company, an unincorporated division of PACCAR Inc, and PACCAR Inc, by and through counsel, Lavin, O'Neil, Ricci, Cedrone & DiSipio, hereby file this Notice of Removal of the above-described action to the United States District Court for the Middle District of Pennsylvania from the Court of Common Pleas of Lackawanna County, Pa., where the action is now pending, as provided by 28 U.S.C. §§ 1332, 1441 and 1446 and invokes the jurisdiction of this Honorable Court on the following grounds:

1. The above-entitled action was commenced in the Court of Common Pleas of Lackawanna County, Pa., on August 11, 2009 by the filing of a Complaint. A copy of Plaintiffs' Complaint is attached and marked Exhibit "A."

2. Plaintiffs' claims against the defendants sound in negligence, strict liability in tort, and breach of warranty and arise out of a slip and fall accident involving plaintiff Robert Vaskas and which took place on August 21, 2007 in Wyalusing, Bradford County, Pennsylvania. See Exhibit "A."

3. Defendant, Motor Truck Equipment – Pittsburgh, Inc., d/b/a Kenworth of Pennsylvania, was an original named defendant in the suit. See Exhibit “A.”

4. Motor Truck Equipment – Pittsburgh, Inc., d/b/a Kenworth of Pennsylvania is now known as Motor Truck Equipment Company, d/b/a Kenworth of Pennsylvania, is a Pennsylvania corporation with a principal place of business located at 198 Kost Road, Carlisle, Pa. 17015. See Exhibit “B,” paragraph 3.

5. On April 29, 2010, all counsel of record agreed to the voluntary dismissal of Motor Truck Equipment – Pittsburgh, Inc., d/b/a Kenworth of Pennsylvania and a copy of the Stipulation is attached hereto and marked Exhibit “C.” The Stipulation was filed of record on April 29, 2010. See Exhibit “C,” which also includes a copy of the docket from the Lackawanna Court of Common Pleas.

6. Kenworth Truck Company is an unincorporated division of PACCAR Inc and maintains a principal place of business in the State of Washington.

7. PACCAR Inc is a Delaware Corporation with a principal place of business in the State of Washington.

8. Therefore, defendant PACCAR Inc is neither incorporated in Pennsylvania nor does it have a principal place of business in Pennsylvania, which is the state of plaintiffs’ domicile.

9. Therefore, this lawsuit is removable from State Court to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §1332, §1441 and §1446.

10. This Notice of Removal is timely in that it is being filed within 30 days after the Stipulation to Dismiss original defendant, Motor Truck Equipment – Pittsburgh, Inc., d/b/a

Kenworth of Pennsylvania was filed of record. Finally, one year has not expired since the commencement of this action.

11. Copies of all process and pleadings and other relevant papers served upon defendants and which have been filed of record are filed herewith and attached as Exhibit "D" pursuant to 28 U.S.C. §1446(a).

12. Attached hereto as Exhibit "E" is the Notice of Removal which is being filed with the Court of Common Pleas of Lackawanna County, Pa.

13. Pursuant to 28 U.S.C. §1446(d), written Notice of Removal is being given to opposing counsel.

WHEREFORE, defendant, PACCAR Inc, (Kenworth Truck Company is an unincorporated division of PACCAR Inc) respectfully requests that this action be removed from the Court of Common Pleas of Lackawanna County, Pa. to the United States District Court for the Middle District of Pennsylvania.

Respectfully Submitted,

LAVIN, O'NEIL, RICCI, CEDRONE & DISIPIO

Date: May 12, 2010

BY: 

Basil A. DiSipio, Esquire /PA ID No. 28212
John J. Bateman, Esquire / PA ID No. 49447
190 N. Independence Mall West, Suite 500
Philadelphia, PA 19106
(215) 627-0303
BDiSipio@Lavin-Law.com
JBateman@Lavin-Law.com

Counsel for Defendants, PACCAR Inc,
and Kenworth Truck Company